IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.807 OF 2004

Mohammed Khalik V. Khan ..Appellant.

V/s.

Municipal Corpn. of Gr. Bombay ..Respondent.

Mrs.Deepa Kuruvilla for appellant.

Mr.J. Xavier for respondent.

CORAM : V.C.DAGA, J.

DATED : 17TH SEPTEMBER, 2004.

P.C. :-

. Heard learned counsel for the appellant.

2. This appeal is directed against the order dated 31st August, 2004 whereby ad-interim relief in terms of prayer clause (a) came to be rejected.

3. The factual matrix reveals that in the earlier round of litigations the City Civil Court vide its order dated 5th May, 2004, while considering the validity of the notice issued under Section 351 of the Corporation Act; directing the demolishing of the said structure, had granted an opportunity to the

appellant to submit his proposal for regularisation of the unauthorised structure and to get the same regularised. In turn, directions to the Corporation were also issued to consider the application for regularisation on its own merits.

4. In spite of the order in favour of the present appellant/original plaintiff, he chose to submit incomplete proposal for regularisation. He did not produce necessary documents which were necessary for getting the structure regularised.

5. It is needless to mention that the appellant had engaged professional services of an Architect on M/s.M.A.Shaikh & Associates to submit a proposal for regularisation. M/s.M.M.Shaikh & Associates, as a practising Architect were expected to know, while submitting the proposal for regularisation that all information and documents were required to be submitted to satisfy the Corporation authorities as per the provisions of the Act, Rules and Bye-laws, if any.

6. When the proposal for regularisation was processed it was observed by the Corporation that the plan did not show the nature of additions and

alterations/scope of work which was to be regularised as per the provisions of section 342 of the M.M.C. Act. The structure to be regularised appears to be falling in the reservation of T.G. and Housing for Dishoused for which plans, D.P.Clearance and documents showing the layout approval were necessary. The same were not submitted with the regularisation proposal. Certain other requirements were also required to be complied with. It appears that necessary requirements were not complied with by the appellant. Under the circumstances, the Corporation had no option but to reject the proposal for regularisation. In my opinion, it is too much for any property holder to first develop property illegally and then seek assistance of the Courts to get their illegality regularised without complying with the requirement of law and to expect ad-interim order without full-fledged hearing of the Notice of Motion.

7. At this juncture, without going into the merits or demerits of the case since the Notice of Motion is still pending, without expressing any opinion, I do not find that this is a case wherein this Court should interfere with the impugned order at this stage of the litigation.

. Appeal is, thus, dismissed in limini with no order as to costs.

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